



Town of Moultonborough Zoning Board of Adjustment

Notice of Decision

Request for Variances

Amanda J. Verbanic & William J. Taylor, II / Map 169, Lot 68

June 18, 2014

Applicant: Amanda J. Verbanic & William J. Taylor, II
60 Dale Road
Sandwich, NH 03227

Location: 17 Whittier Highway, Moultonborough, NH (Tax Map 169, Lot 68)

On June 4, 2014, the Zoning Board of Adjustment of the Town of Moultonborough opened a public hearing on two (2) applications for Amanda J. Verbanic & William J. Taylor, II (hereinafter referred to as the "Applicants" and/or "Owners") for a variance from **Article VI.F.(2) and Article IX.D** to obtain a front, side and rear setback variance and to obtain a variance to allow disturbance within the 25 ft. vegetation-only portion of the 50 ft. wetland buffer, respectively, to construct a new restaurant structure where an existing, grandfathered, nonconforming structure is to be demolished on their parcel located in the Commercial Zone A.

Based on the application, and testimony given at the hearings, the Board hereby makes the following findings of fact:

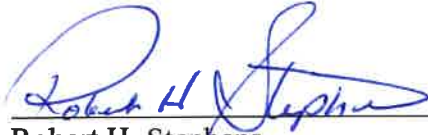
- 1) The property is located on 17 Whittier Highway (Tax Map 169, Lot 68).
- 2) The applicants are the owners of record for the lot.
- 3) The applicant was represented at the Public Hearing by David M. Dolan of David M. Dolan Associates, PC.
- 4) The lot is located in Commercial Zone A zoning district.
- 5) The lot is subject to the Ground Water Protection Overlay District requirements contained in the Moultonborough Zoning Ordinance.
- 6) The existing non-conforming structure is located 7.2 ft. from the rear property line, 22.5 ft. from the side property line, and 40.2 ft. from the front property line.

- 7) The proposed one story structure is to be located 7.5 ft. from the rear property line, (25 ft. required), 25.5 feet from the side property line, (25 ft. required) and 37.5 ft. from the front property line, (50 ft. required).
- 8) The applicant has received a NH DES Wetlands Bureau Permit #2013-03225 dated 12/30/2013 for the installation of the proposed culvert and for new construction on the site.
- 9) The applicant has received a NH DOT Driveway Permit No. 313155A dated 06/16/2012 that requires closing up the wide, uncontrolled driveway into the site.
- 10) No members of the public wished to speak during the public hearing.
- 11) Granting the Variance would not be contrary to the public interest as there will be no apparent change to the use or location and size of the building and the effects to the environment will be improved.
- 12) Granting the Variance is consistent with the spirit of the Ordinance as the ordinance recognizes that properties of record have rights to continue allowed uses despite certain nonconformities inherent in the structure that the use is in.
- 13) By granting the Variance, substantial justice is done for the applicant by the recognition of the above statement.
- 14) Granting the Variance does not diminish the value of surrounding properties because the commercial structure and development site will be greatly improved.
- 15) No fair and substantial relationship exists between the general public purpose of the ordinance provision and the specific application of the setback requirements on a lot of record where the building envelope is so small as to not allow any reasonable structure to house an allowed commercial use in the district, especially where a rehab of the structurally deficient building would not be possible or reasonable.
- 16) On June 4, 2014 the Zoning Board of Adjustment voted by a vote of five (5) in favor (Stephens, Nolin, Zewski, Bickford, Jenny) and none (0) opposed, to Approve the request(s) for both variances and to close the Public Hearing. They moved to direct Staff to draft one (1) formal Notice of Decision to Grant the two (2) variances with the following conditions: that a foundation certificate survey be submitted at the time of application for building permit to the Office of Development Services and that the Notice of Decision to be recorded at the applicants expense at the Carroll County Registry of Deeds, and further, to close the Public Hearing.

The Board of Adjustment, on June 18, 2014, approved this formal Notice of Decision language and authorized the Chairman to sign the Notice of Decision and send to the applicant and place same in the case file by a vote of (5) in favor (Stephens, Nolin, Zewski, Bickford, DeMeo), none (0) opposed.

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The decision made to Approve the variances on June 4, 2014 shall not take effect until thirty (30) days have elapsed and no request for rehearing has been filed in accordance with RSA 677:2, or that if such request has been filed, it has been dismissed or denied, in accordance with RSA 677:3.



Robert H. Stephens
Chairman, Zoning Board of Adjustment

Date 6/23/2014